



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-110]

Vertical Metal File Cabinets From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that vertical metal file cabinets (file cabinets) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2018 through March 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Kathryn Wallace, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3945 or (202) 482-6251, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on May 24, 2019.<sup>1</sup> For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>2</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Scope of the Investigation

The products covered by this investigation are file cabinets from China. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>3</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>4</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I.

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<sup>1</sup> *See Vertical Metal File Cabinets from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 84 FR 24093 (May 24, 2019) (*Initiation Notice*).

<sup>2</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Vertical Metal File Cabinet from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>3</sup> *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>4</sup> *See Initiation Notice*.

## Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, we have preliminarily relied upon facts otherwise available, with adverse inferences, for the China-wide entity because it did not respond to our requests for information. Commerce has preliminarily relied upon facts otherwise available, with adverse inferences, for the China-wide entity because it did not respond to our request for information. No companies have demonstrated their eligibility for a separate rate; thus, all companies are preliminarily found to be part of the China-wide entity. Furthermore, we find that the China-wide entity's lack of participation, including the failure of certain parts of the China-wide entity to respond to Commerce's questionnaires, constitute circumstances under which it is reasonable to conclude that the China-wide entity as a whole failed to cooperate to the best of its ability to comply with Commerce's requests for information. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

## Combination Rates

In the *Initiation Notice*,<sup>5</sup> Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.<sup>6</sup> In this case, because we did not receive any separate rate applications, and thus, no companies qualified for a separate rate, producer/exporter combination rates were not calculated.

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<sup>5</sup> *See Initiation Notice*, 84 FR 24096.

<sup>6</sup> *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist during the period October 1, 2018 through March 31, 2019:

<b>Producer/Exporter</b>	<b>Estimated Weighted-Average Dumping Margin</b>	<b>Estimated Weighted-Average Dumping Margin Adjusted for Export Subsidy Offset(s) (percent)</b>
China-Wide Entity	198.5 percent	160.77

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of China producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash

deposit rate is the cash deposit rate applicable to the China producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). As discussed in the Preliminary Decision Memorandum, we have made no adjustment for domestic subsidy pass-through. As further explained in the Preliminary Decision Memorandum, we have made an adjustment for export subsidies found in the companion CVD investigation.<sup>7</sup> The adjusted rate may be found in the Preliminary Determination Section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for export subsidies at the time the CVD provisional measures expire.

These suspension of liquidation instructions will remain in effect until further notice.

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<sup>7</sup> See unpublished *Federal Register* notice, "Vertical Metal File Cabinets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination," signed July 24, 2019, and accompanying Issues and Decision Memorandum.

### Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA to the China-wide entity in this investigation in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 50 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>8</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington,

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<sup>8</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination.

Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: July 24, 2019.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix I**

### **Scope of the Investigation**

The scope of this investigation covers freestanding vertical metal file cabinets containing two or more extendable file storage elements and having an actual width of 25 inches or less.

The subject vertical metal file cabinets have bodies made of carbon and/or alloy steel and or other metals, regardless of whether painted, powder coated, or galvanized or otherwise coated for corrosion protection or aesthetic appearance. The subject vertical metal file cabinets must have two or more extendable elements for file storage (*e.g.*, file drawers) of a height that permits hanging files of either letter (8.5" x 11") or legal (8.5" x 14") sized documents.

An "extendable element" is defined as a movable load-bearing storage component including, but not limited to, drawers and filing frames. Extendable elements typically have suspension systems, consisting of glide blocks or ball bearing glides, to facilitate opening and closing.

The subject vertical metal file cabinets typically come in models with two, three, four, or five-file drawers. The inclusion of one or more additional non-file-sized extendable storage elements, not sized for storage files (*e.g.*, box or pencil drawers), does not remove an otherwise in-scope product from the scope as long as the combined height of the non-file-sized extendable storage elements does not exceed six inches. The inclusion of an integrated storage area that is not extendable (*e.g.*, a cubby) and has an actual height of six inches or less, also does not remove a subject vertical metal file cabinet from the scope. Accessories packaged with a subject vertical file cabinet, such as separate printer stands or shelf kits that sit on top of the in-scope vertical file cabinet are not considered integrated storage.

"Freestanding" means the unit has a solid top and does not have an open top or a top with holes punched in it that would permit the unit to be attached to, hung from, or otherwise used to support a desktop or other work surface. The ability to anchor a vertical file cabinet to a wall for stability or to prevent it from tipping over does not exclude the unit from the scope.

The addition of mobility elements such as casters, wheels, or a dolly does not remove the product from the scope. Packaging a subject vertical metal file cabinet with other accessories, including, but not limited to, locks, leveling glides, caster kits, drawer accessories (*e.g.*, including but not limited to follower wires, follower blocks, file compressors, hanger rails, pencil trays, and hanging file folders), printer stand, shelf kit and magnetic hooks, also does not remove the product from the scope. Vertical metal file cabinets are also in scope whether they are imported assembled or unassembled with all essential parts and components included.

Excluded from the scope are lateral metal file cabinets. Lateral metal file cabinets have a width that is greater than the body depth, and have a body with an actual width that is more than 25 inches wide.

Also excluded from the scope are pedestal file cabinets. Pedestal file cabinets are metal file cabinets with body depths that are greater than or equal to their width, are under 31 inches in



actual height, and have the following characteristics: (1) an open top or other the means for the cabinet to be attached to or hung from a desktop or other work surface such as holes punched in the top (*i.e.*, not freestanding); or (2) freestanding file cabinets that have all of the following: (a) at least a 90 percent drawer extension for all extendable file storage elements; (b) a central locking system; (c) a minimum weight density of 9.5 lbs./cubic foot; and (d) casters or leveling glides.

“Percentage drawer extension” is defined as the drawer travel distance divided by the inside depth dimension of the drawer. Inside depth of drawer is measured from the inside of the drawer face to the inside face of the drawer back. Drawer extension is the distance the drawer travels from the closed position to the maximum travel position which is limited by the out stops. In situations where drawers do not include an outstop, the drawer is extended until the drawer back is 3-1/2 inches from the closed position of inside face of the drawer front. The “weight density” is calculated by dividing the cabinet’s actual weight by its volume in cubic feet (the multiple of the product’s actual width, depth, and height). A “central locking system” locks all drawers in a unit.

Also excluded from the scope are fire proof or fire-resistant file cabinets that meet Underwriters Laboratories (UL) fire protection standard 72, class 350, which covers the test procedures applicable to fire-resistant equipment intended to protect paper records.

The merchandise subject to the investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.10.0020. The subject merchandise may also enter under HTSUS subheadings 9403.10.0040, 9403.20.0080, and 9403.20.0090. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
  - II. Background
  - III. Scope of the Investigation
  - IV. Scope Comments
  - V. Discussion of the Methodology
  - VI. Adjustment Under Section 777(A)(F) of the Act
  - VII. Adjustments to Cash Deposit Rates for Export Subsidies
  - VIII. ITC Notification
  - IX. Disclosure and Public Comment
  - X. Verification
  - XI. Conclusion
- [FR Doc. 2019-16327 Filed: 7/31/2019 8:45 am; Publication Date: 8/1/2019]